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U.S. Department of Justice
Washington, D.C. 20530

A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies

December 1990

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A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies

December 1990

Prepared by the Executive Office for Asset Forfeiture
Office of the Deputy Attorney General

Office of the Attorney General

Washington, D.C. 20530

FOREWORD

The Department of Justice has placed a high priority on the forfeiture of proceeds and instrumentalities of crime as an integral part of our law enforcement program. Dismantling the economic underpinnings of criminal activity is critical to our anti-crime effort.

In 1984, it was the Department of Justice that secured the enactment of provisions in the Comprehensive Crime Control Act which gave us the authority to share federally forfeited property with cooperating State and local law enforcement agencies. The equitable sharing program is a dramatic success story. Through Fiscal Year 1990, we have shared over $474.3 million in cash and $69.5 million in tangible property with our State and local colleagues.

The increased cooperation that the equitable sharing program has fostered among federal, State and local law enforcement agencies is outstanding. We must all be vigilant in maintaining the integrity of the program so that it will continue to be available to us for years to come. It is a program that can continue to help those of you on the front lines in the war on crime.

Dick Thornburgh
Attorney General

December 1990
Washington, D.C.

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I. GOALS OF THE DEPARTMENT OF JUSTICE FORFEITURE PROGRAM

The Department's forfeiture program has three primary goals:

1. To punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities;

2. To enhance cooperation among federal, state, and local law enforcement agencies through equitable sharing of assets recovered through this program; and

3. As a by-product of the above, to produce revenues to enhance forfeitures and strengthen law enforcement. The policies and procedures governing equitable sharing are contained in The Attorney General's Guidelines on Seized and Forfeited Property (July 1990). (See Appendix B.)

II. SHARING AUTHORITY

The Attorney General is authorized to share forfeited property with any state or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

This authority is found primarily at 21 U.S.C. § 881(e)(1)(A), 18 U.S.C. § 981(e) and 19 U.S.C. § 1616. (See Appendix A.)

III. AGENCIES ELIGIBLE TO RECEIVE EQUITABLE SHARING PAYMENTS

Any state or local law enforcement agency that directly participated in the investigation or prosecution of criminal activity or the execution of court orders arising from that activity may request an equitable share.

IV. THE TWO WAYS YOU CAN PARTICIPATE IN THE EQUITABLE SHARING PROGRAM

A. Joint Investigation

A state or local law enforcement agency may directly participate with one of the following federal agencies in the investigation or prosecution of violations of federal law which provide for the forfeiture of property.

Federal Agencies Involved in the Justice Forfeiture Program

Drug Enforcement Administration
Federal Bureau of Investigation
Immigration and Naturalization Service
Internal Revenue Service
U.S. Postal Inspection Service
U.S. Bureau of Alcohol, Tobacco and Firearms

B. Adoption of a State or Local Seizure

A state or local law enforcement agency that has seized property may request that one of the above federal agencies adopt the seizure and proceed with federal forfeiture. The request for federal adoption of a state or local seizure should be made within fifteen (15) days of the date the property was seized.

The property seized must be forfeitable under a federal law enforced by the Department of Justice and the forfeitable interest (i.e., the net equity) must **generally** meet the following federal dollar thresholds:

Conveyances

Vehicles	$2,500
Aircraft	$5,000
Vessels	$5,000

Non-Conveyances

Real Property	$10,000
Cash	$ 1,000
All other property	$ 1,000

***NOTE**: The Immigration and Naturalization Service, in its border enforcement efforts, seizes large numbers of motor vehicles valued at less than $2,500. These seizures are made for purely law enforcement reasons and without regard to dollar thresholds. Also, thresholds may be higher in districts where extremely large caseloads require it.*

V. HOW PROPERTY IS FEDERALLY FORFEITED

A. Administrative Forfeiture

Subject to the following dollar thresholds, federal agencies **may** administratively forfeit seized property where no claim and cost bond has been filed:

Monetary Instruments (e.g. cash, checks, stocks, bonds)	**Unlimited Value**
Hauling Conveyances (e.g. cars, boats, planes used to transport illegal drugs)	**Unlimited Value**
Other Property	**$500,000**

NOTE: Department of Justice policy requires that all real property be forfeited judicially.

B. Judicial Forfeiture

Any case in which: (1) the value of the property exceeds the above listed limits; (2) a claim and cost bond has been filed; or (3) real property is involved; must be forfeited through a judicial proceeding in federal district court.

VI. HOW TO APPLY FOR AN EQUITABLE SHARE

After the **seizure** in a joint case in which your agency directly participated or the federal **adoption** of your agency's seizure, you may request a share of the property.

An **Application for Transfer of Federally Forfeited Property - Form DAG-71** must be submitted to one of the appropriate federal agencies within **sixty (60) days** following the seizure. In adoptive seizures, the sixty (60) days begin to run on the date the federal agency adopts the case. (See Appendix C.)

Pursuant to the Guidelines, **no request can be considered unless it is submitted within the applicable sixty (60) day period.**

Forfeiture, like all legal proceedings, takes time. Equitable sharing can only occur after the federal forfeiture has been completed and the United States has taken clear title to the property. In addition, where a claimant has filed a petition for remission or mitigation of the forfeiture, sharings can be delayed. Finally, if the forfeiture involves property which must be sold, sharing cannot occur until the sale is complete and the net proceeds of sale determined.

The most common cause of unnecessary delay can be overcome by ensuring that the DAG-71 is accurate, complete and timely. The federal investigative agency can assist you in filling out the DAG-71 and the Law Enforcement Committee Coordinator in the United States Attorney's office can assist you in determining the status of your request.

VII. USE OF EQUITABLY SHARED PROPERTY

Pursuant to Department of Justice policy, all equitably shared cash and tangible property, and any income generated by this property, **must be used for the law enforcement purposes stated in the DAG-71.** The DAG-71 should be treated as a contract between the requesting agency and the Department of Justice; and the terms are binding on the parties.

Cash or tangible property shall be shared with state or local agencies only where it will **increase and not supplant law enforcement resources of that specific state or local agency. Any interest generated by this property shall also go to law enforcement purposes. Use of equitable sharing monies to pay for basic operational expenses is discouraged.**

Permissible state and local law enforcement uses include, but are not limited to:

1. Purchase of vehicles and equipment necessary for law enforcement functions;

2. Purchase of weapons and protective equipment;

3. Purchase of investigative communications equipment;

4. Payment of salaries and overtime for law enforcement officers;

5. Purchase of ADP equipment and software to be used in support of law enforcement purposes;

6. Payment of expenses for training of law enforcement personnel;

7. Payment of expenses for travel and salaries for law enforcement personnel;

8. Use as reward money; and

9. Costs associated with construction, expansion, improvement or operation of detention facilities.

***NOTE**: Forfeited firearms may not be transferred to state or local agencies.*

Any questions regarding what constitutes a permissible law enforcement use should be directed to the federal investigative agency that will be processing your request or to the Law Enforcement Committee Coordinator in the United States Attorney's office.

VIII. HOW EQUITABLE SHARES ARE CALCULATED

A. Net Proceeds

The amount of the share is based upon the **net proceeds** of the forfeiture. "Net Proceeds" are calculated as follows:

GROSS RECEIPTS FROM FORFEITURE OR THE SALE OF FORFEITED PROPERTY

Less: - Qualified Third Party Interests
(i.e. valid liens, mortgages)

- Federal Case Related Expenses
(i.e. advertising costs, out of pocket litigation expenses)

- Any Award Paid to a Federal Informant

- Federal Property Management Expenses
(i.e. appraisal, storage, security)

Equals: NET PROCEEDS AVAILABLE FOR SHARING

***NOTE:** Shares are never based on the estimated or appraised value of property.*

B. **Sharing Percentages - Adoptive Seizure Cases**

Sharing in adoptive cases is based on a "flat rate" system as follows:

In cases involving adoptive seizures that are forfeited administratively or in uncontested judicial proceedings, **fifteen (15) percent** of the net proceeds will be allocated for the federal share. **Eighty-five (85) percent** will be allocated for the state or local agency's equitable share.

In cases involving adoptive seizures that are forfeited in contested judicial proceedings, **twenty (20) percent** of the net proceeds will be allocated for the federal share. **Eighty (80) percent** will be allocated for the state or local share.

C. **Sharing Percentages - Joint Cases**

Sharing in joint cases is determined on a case-by-case basis. The following factors shall be considered by the federal decision-maker in determining the amount of the equitable share in a joint case:

1. Pursuant to 21 U.S.C. 881(e)(3), the degree of direct participation of the state or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort, including any related criminal prosecution with respect to the violation of law on which the forfeiture is based;

2. Whether the agency originated the information leading to the seizure and whether the agency obtained it fortuitously or by use of its investigative resources;

3. Whether the agency provided unique or indispensable assistance;

4. Whether the agency initially identified the asset(s) for seizure;

5. Whether the agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to state or local law;

6. Whether the agency could have achieved forfeiture under state law, with favorable consideration given to an agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

NOTE: Consideration is also given to such qualitative factors as risk or danger to agents, difficulty of task assumed, etc.

D. Sharing in Task Force and other Multi-Agency Cases

Many task forces involving federal, state and local law enforcement agencies have pre-agreed upon equitable sharing distribution schemes based upon manpower contributions to the task force operation. Such distribution schemes are honored by the Department of Justice. Single checks will be issued to task forces for distribution pursuant to their internal sharing agreements only where the task force is itself a recognized law enforcement entity subject to the accounting requirements of state law or other relevant political subdivision.

E. Sharing of Tangible Property

In cases where only a single item of tangible property is forfeited and a state or local agency requests that item in lieu of proceeds from the sale of the property, the United States shall still be allocated its costs and the appropriate equitable share to reflect the total federal participation in the forfeiture effort.

If the requesting agency is unable to pay the costs and the federal equitable share in such a one-asset case, the property shall be sold by the U.S. Marshals Service and the proceeds equitably distributed. Exceptions to this requirement will be liberally granted by the deciding official upon assurances that:

1. The requesting state or local agency lacks funds or authority to make such payments; and

2. The forfeited item itself will fill a demonstrable need of the requesting agency.

In cases involving multiple agencies that are not formally organized as task forces, the agencies frequently work together to determine the overall equitable sharing distributions they will seek.

NOTE: Vehicles and other tangible property are equitably shared with state and local agencies where the intent is to place them into official law enforcement use for a period of two years. Such property must be utilized in the manner indicated in the DAG-71. However, earlier liquidation of vehicles and other tangible property that have become substantially damaged or prove not to be cost effective to maintain is permissible.

F. **Sharing of Real Property for Official Use**

The transfer of real property to state or local agencies for official law enforcement use is generally discouraged. Consideration will be given to cases in which the requesting agency can provide compelling evidence of the need for and the suitability of a particular real property. Title to real property transferred to a state or local agency shall contain a reverter clause to return title to the United States in the event that the real property ceases to be used for the agreed upon purpose.

G. **Examples of Sharing Distributions**

1. **Investigative Agencies**

a. Investigation and Seizure by State or Local Law Enforcement Followed by Federal Adoption and Administrative or Uncontested Judicial Forfeitures

Federal Agency X "adopted" the seizure of property seized by State and Local Task Force (SLTF), which is comprised of five law enforcement agencies. SLTF conducted the **entire** investigation and seized the assets in the case. These assets (cash, conveyances and other personal property) are **administratively** forfeited by Federal Agency X. (***NOTE:*** *This example also would apply to an uncontested judicial forfeiture by the United States Attorney.)*

The equitable sharing distribution of **net proceeds** of the forfeiture would be as follows: (1) SLTF: 85% and (2) 15% to the Department of Justice Assets Forfeiture Fund (AFF). (***NOTE:*** *The SLTF 85% share would be allocated to the five participating agencies pursuant to degree of participation by each agency or by formula established by prior SLTF agreement.)*

The **net proceeds** of the forfeiture available for sharing consist of the forfeited **cash** and the gross receipts from the sale of the forfeited property less allowable costs (i.e., asset management and case-related expenses, third party interests, any award based on the value of the forfeiture).

Where a forfeited conveyance is transferred to an SLTF member agency, the value of the conveyance is taken into consideration in calculating the overall percentage awarded to

that agency. Thus, the amount of cash awarded to the agency would be reduced by the value of the conveyance.

b. Investigation and Seizure by State or Local Law Enforcement Followed by Federal Adoption - Contested Judicial Forfeiture

Same facts as in Example 1 above, however, the forfeiture proceeded judicially and was contested. The distribution of net proceeds would be as follows: (1) SLTF: 80% and (2) AFF: 20%.

The higher percentage of net proceeds distributed to the AFF in an adopted seizure forfeited in a contested judicial proceeding reflects the greater amount of federal effort required to prosecute a contested case.

c. Joint Investigation - Equal Participation

Federal Agency X participated in a joint investigation with State Agency A, and Local Agencies B and C. All agencies contributed an equal amount of support and resources to the investigation. The distribution of net proceeds would be as follows: (1) State Agency A: 25%; (2) Local Agencies B and C: 25% each and (3) AFF: 25%.

Thus, where the federal effort is equal to the state and local effort, the AFF would receive an equal percentage of the net proceeds.

d. Joint Investigation - Unequal Participation

Federal Agency X participated in a joint investigation with State Agency A and Local Agencies B, C, and D. The investigation, which lasted two years, was initiated by the Federal Agency X with major assistance from State Agency A. Throughout most of the investigation, State Agency A and Local Agencies B, C, and D contributed equally in terms of support and resources. During the latter part of the investigation, however, Local Agencies E and F were asked to lend their assistance. A large seizure of cash, real property, and personal property was forfeited.

Clearly, Local Agencies E and F are entitled to a percentage of the net proceeds, as they contributed towards the overall investigation. However, because their contribution was relatively smaller than that of the other agencies involved, their sharing percentage would also be smaller. For example, the distribution of net proceeds might appear as follows: (1) State Agency A: 20%; (2) Local Agencies B, C, and D: 15% each; (3) Local Agencies E and F: 5% each; and (4) AFF: 25%.

e. Multi-Agency and Multi-Jurisdictional Investigation

Federal Law Enforcement Agencies X, Y, and Z conducted an investigation with major support from State Agencies C, D, and E in Jurisdiction 1. Also, participating in the investigation were State Agencies F and G, and Local Agencies H, I, and J in Jurisdiction 3. The investigation lasted three years and resulted in a multi-million dollar seizure of cash, negotiable instruments, real property, and personal property which was ultimately forfeited in a contested judicial proceeding.

In a multi-agency and multi-jurisdictional investigation such as this, the percentage of net proceeds shared would be calculated on the basis of **actual participation**, taking into consideration the number of hours spent and the number of personnel who actively participated in the investigation, etc. Where multiple judicial districts are involved, sharing determinations may be made by federal headquarter officials in Washington, D.C. The percentage of net proceeds allocated to the AFF shall be **at least twenty (20) percent**.

2. **Prosecutorial Agencies**

Pursuant to The Attorney General's Guidelines on Seized and Forfeited Property (July, 1990), equitable sharing of federally forfeited assets with state and local prosecutors is expressly allowed. The following are ways in which prosecutors can qualify for an equitable share:

a. Providing assistance in the preparation of search and seizure warrants and other documents relating to the forfeiture. (A small share of the net forfeiture proceeds would be merited.);

b. Providing a key informant, or substantially assisting throughout the investigation that leads to a federal forfeiture. (A large share of the net forfeiture proceeds could be merited depending upon the circumstances of the specific case.);

c. Cross-designating your attorneys to handle federal forfeiture or related criminal cases in federal court. (The Department will authorize sharing of a portion of what would otherwise be the **federal** equitable share with cooperating local prosecutors who cross-designate attorneys.); and

d. Prosecuting criminal cases under state law directly related to a federal forfeiture. (The equitable share in such cases should be determined by the United States Attorney in conjunction with his or her Law Enforcement Coordinating Committee.)

IX. DECISION MAKING AUTHORITY

* The head of the federal investigative agency determines the amount of the equitable share in **administrative** forfeitures valued at less than $1,000,000.

* The United States Attorney determines the amount of the equitable share in **judicial** forfeitures valued at less than $1,000,000.

* The Deputy Attorney General determines the amount of the equitable share in administrative and judicial forfeitures valued at $1,000,000 or more, in multi-district cases and in cases involving the transfer of real property to a state or local agency.

X. ACCOUNTING FOR EQUITABLY SHARED CASH AND TANGIBLE PROPERTY

All state and local agencies should implement standard accounting practices and internal controls to track equitably shared monies and tangible property. Equitable sharing payments should be subject to all accounting controls and audit requirements applicable to other public monies of states and political subdivisions. Agencies are encouraged to conduct internal audits of their equitably shared monies and property on a regular basis. Guidance on how to establish a proper accounting system is available from the Department of Justice. Please write:

Executive Office for Asset Forfeiture
Office of the Deputy Attorney General
United States Department of Justice
Room 6324
Washington, D.C. 20530

APPENDIX A

MAJOR STATUTES ENFORCED BY FEDERAL INVESTIGATIVE AGENCIES WHICH PERMIT EQUITABLE SHARING
August 1990

Federal Drug Violations

Title 21 U.S.C. § 853	Criminal forfeiture procedure covering all property used to commit a felony violation of the Federal drug laws and proceeds obtained from such violations.
Title 21 U.S.C. § 881	Civil forfeiture of specific property with a nexus to illegal drug trafficking used or acquired in a prohibited manner.

Money Laundering Violations

Title 18 U.S.C. § 981	Civil forfeiture of property involved in a Federal money laundering violation and the proceeds traceable thereto. Also provides for the forfeiture of proceeds traceable to certain Federal bank fraud violations.
Title 18 U.S.C. § 982	Criminal forfeiture of property involved in a Federal money laundering violation and the proceeds traceable thereto. Also provides for the forfeiture of proceeds traceable to certain Federal bank fraud violations.

Gambling and Racketeering Laws

Title 18 U.S.C. § 1963	Criminal forfeiture of certain property, property interests, and proceeds obtained illegally during the commission of the Federal racketeering law (RICO).
Title 18 U.S.C. § 1955	Civil forfeiture of property used in an illegal interstate gambling business.
Title 15 U.S.C. § 1177	Confiscation of gambling devices and means of transportation.

Child Pornography and Obscenity Laws

Title 18 U.S.C. § 2253	Criminal forfeiture of certain property used or acquired in violation of Federal child pornography laws.
Title 18 U.S.C. § 2254	Civil forfeiture of certain property used or acquired in violation of Federal child pornography laws.
Title 18 U.S.C. § 1467	Criminal forfeiture of property used to commit or promote the commission of a violation of the Federal obscenity laws, and proceeds traceable to such violations.

Auto and Electronic Communication Theft Violations

Title 18 U.S.C. § 512	Civil forfeiture of automobiles and parts involved in specific prohibited conduct.
Title 18 U.S.C. § 2513	Civil forfeiture of certain property used to illegally intercept wire, oral, or electronic communications.

Other Federal Violations

Illegal War Munitions

Title 22 U.S.C. § 401	Civil forfeiture of arms, munitions of war, or other articles exported illegally, and conveyances used to export such items illegally.

Copyright Materials

Title 17 U.S.C. § 509	Civil forfeiture of specific property that has been used to illegally manufacture, reproduce or distribute phonograph records or copies of copyrighted materials.

Smuggling of Aliens

Title 8 U.S.C. § 1324(b)	Civil forfeiture of conveyances that have been used in the smuggling of aliens into the United States.

Drug Paraphernalia

Title 21 U.S.C. § 857	Civil forfeiture of drug paraphernalia.

EXCERPT FROM

THE ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY

JULY 1990

V. EQUITABLE TRANSFER OF FORFEITED PROPERTY TO PARTICIPATING STATE AND LOCAL AGENCIES

Pursuant to 21 U.S.C. § 881(e)(1) and 19 U.S.C. § 1616a, as made applicable by 21 U.S.C. § 881(d) and other statutes, the Attorney General has the authority to equitably transfer forfeited property and cash to state and local agencies that directly participate in the law enforcement effort leading to the seizure and forfeiture of the property. Requests for equitable transfers shall be filed in the form prescribed by the Director, Executive Office for Asset Forfeiture.

A. Equitable Transfers Generally

1. All equitable shares shall be based on the **net** proceeds of the forfeiture.

2. State and local investigative and prosecutive agencies may share in forfeited cash and property and the proceeds from the sale of forfeited property.

3. All property transferred to state and local agencies and any income generated by this property shall be used for the law enforcement purposes specified in the request.

4. A state or local agency may file a request for an equitable share of cash or property where it can demonstrate that it participated directly in the law enforcement effort that resulted in the forfeiture.

5. No request shall be considered if it is submitted after sixty (60) days following the seizure.

6. Cash and property shall be equitably shared with a state or local agency only where it will increase and not supplant law enforcement resources of the specific state or local agency that participated in the forfeiture.

7. The deciding official shall ensure that the share approved has a value that bears a reasonable relationship to the degree of direct participation of the state or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.

B. **Factors Governing the Amount of the Equitable Transfer**

The amount of equitable transfer of proceeds from the sale of forfeited property shall be based upon the **net** proceeds realized from the sale of the property or liquidation of negotiable instruments. Equitable sharing amounts shall be calculated after the determination of any award based upon the value of the forfeiture. Asset management expenses may be calculated on a **pro rata** basis where expenses cannot reasonably be determined for a specific asset.

In determining the amount of the equitable transfer for each participating agency, the following factors shall be considered:

1. Whether the seizure was adopted or was the result of a joint investigation;

2. The degree of direct participation in the law enforcement effort by the state or local agency resulting in the forfeiture, taking into account the total value of all property forfeited and total law enforcement effort, including any related criminal prosecution with respect to the violation of law on which the forfeiture is based (21 U.S.C. § 881(e)(3));

3. Whether the state or local agency originated the information that led to the seizure and whether the agency obtained such information fortuitously or by use of its investigative resources;

4. Whether the state or local agency provided unique or indispensable assistance;

5. Whether the state or local agency initially identified the asset(s) for seizure;

6. Whether the state or local agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to state or local law; and,

7. Whether the state or local agency could have achieved forfeiture under state law, with favorable consideration given to an agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

C. **Sharing Percentages**

1. In cases involving adoptive seizures that are forfeited administratively or in uncontested judicial proceedings, the determining official shall allocate to the United States fifteen (15) percent of the total net proceeds realized through the disposition of forfeited property.

   In cases involving adoptive seizures that are forfeited in contested judicial proceedings, the determining official shall allocate to the United States twenty (20) percent of the total net proceeds realized through the disposition of the forfeited property. These amounts represent the federal equitable share based upon its effort in forfeiting the property.

   These sharing percentages shall be applicable to property seized on or after September 1, 1990.

2. In non-adoptive cases the determining official shall allocate to the United States at least the applicable percentages set forth in paragraph 1.

3. The United States' equitable share can often be satisfied by the allocation of one or more of the items forfeited (or a portion of the proceeds thereof) to the United States.

   In cases where only one asset or item is forfeited and state or local agency requests that asset in lieu of proceeds from the disposition of the property, the determining official shall ensure that the United States receives its costs and equitable share to reflect total federal participation in the forfeiture effort. If the requesting agency is unable to pay the costs and federal share in such a one-asset forfeiture case, the property shall be sold by the U.S. Marshals Service and the proceeds distributed in accordance with these Guidelines.

   Exceptions to this requirement may be granted by the deciding official upon assurances that (1) the requesting state or local agency lacks funds or authority to satisfy the United States' equitable share

and costs; and (2) the forfeited item will fill a demonstrable need of the requesting agency. Such exceptions shall be liberally granted where the two above showings are made.

4. Nothing in this section shall alter the ability of the U.S. Marshals Service to pay appropriate expenses from the Fund or to recover costs directly from participating agencies.

D. **Decision-Making Authority**

Sharing decisions should be made during the period when forfeiture proceedings are being conducted. Decision-making authority shall be as follows:

1. Administrative Forfeitures Valued at Less than $1,000,000

The head of the seizing investigative bureau shall determine the appropriate equitable transfer of assets forfeited in a single administrative proceeding where the appraised value of the asset(s) is less than $1,000,000.

2. Judicial Forfeitures Valued Less than $1,000,000

The United States Attorney shall determine the appropriate equitable distribution of asset(s) forfeited in a single judicial proceeding in his or her district where the appraised value of the asset(s) is less than $1,000,000.

3. Administrative and Judicial Forfeitures Valued at $1,000,000 or Greater and Multi-District Cases

In the case of a single administrative or judicial proceeding where the appraised value of the asset(s) forfeited is $1,000,000 or more in multi-district cases, the United States Attorney(s) shall, after consultation with the investigative bureau(s), forward his (their) evaluation(s) and recommendation(s) to the Deputy Attorney General or his designee for determination.

4. Real Property Forfeitures

The Deputy Attorney General or his designee shall approve any equitable transfer of real property. Where appropriate, any such transfer shall include a provision for reversion of title to the United States if the property is not used for the agreed upon purposes.

Date: ☐☐ ☐☐ ☐☐

Investigative Agency: ☐☐☐

Case Number: _____

U.S. Department of Justice

Application for Transfer of Federally Forfeited Property
(For Use By United States Law Enforcement Agencies Only)

For Federal Use Only

I.

Asset #:

Seizure Date:

Judicial District:

Case Type: Adoption ☐ Joint ☐ *(Check One)*

(For Additional Information - See Instructions)

- All assets transferred must be used for the law enforcement purpose stated in the request.
- Deadline for submission of this request is sixty *(60)* days following the seizure.
- The requesting agency will be responsible for reimbursing the Federal Government its costs and may be responsible, in a single-asset case, for reimbursing the federal share.

II. Requesting Agency Name: _____

Address: _____

_____

NCIC Code: ☐☐☐☐☐☐☐☐☐

Contact Person: _____ Telephone Number: (___) _____

III. Asset Requested
Property Description _____

☐ Other assets in this case. *(Attach list).*

Request Type

☐ Item ☐ Cash / Proceeds _____%

IV. Specific Intended Law Enforcement Use:

☐ Salaries ☐ Purchase of Equipment ☐ Other *(Please Explain)*: _____

☐ Purchase of Vehicles ☐ Place Into Official Use *(If other than Cash)*

_____

_____

V. Contribution *(If any answer to A thru E is yes, provide details in Part VI)*

	Yes	No
A. Did your agency originate the information leading to the seizure?	☐	☐
B. Were any other assets seized under state law?	☐	☐
C. Were extraordinary expenses incurred?	☐	☐
D. Did your agency supply any unique or indispensable assistance?	☐	☐
E. Are there any assets located in foreign countries associated with this case?	☐	☐

F. How many hours were expended? _____ hours

VI. Additional space for detailed answers *(Indicate Part to which answer(s) apply)*

(If more space is required, use a separate sheet of paper and attach.) Attachment: ☐ Yes ☐ No

VII. Certifications:

A. The requester certifies that the above information is true and accurate, that the property transferred will be used for the law enforcement purpose stated, and that all monies received pursuant to this request will be deposited and accounted for consistent with applicable state laws, regulations and orders. The requester agrees to report on the actual use of equitably transferred property upon request. The requester agrees to pay fees and expenses necessary to effect transfer of title not later than the time of transfer. The requester understands that if it is unable to pay the necessary fees and expenses at the time of transfer, the asset will be sold and the maximum percent of net sale proceeds will be awarded in lieu of the asset.

_____ _____
Signature / Title Date

B. As legal counsel, I have reviewed this Application for Transfer of Federally Forfeited Property and I certify that the contact person identified in Part II has the authority to accept forfeited property and is the official to whom transfer documents and/or money should be delivered.

_____ _____
Signature / Title Date

Address: _____

_____

Telephone Number: (___) _____

U.S. DEPARTMENT OF JUSTICE
Instructions for Completing Form DAG-71
Application for Transfer of Federally Forfeited Property

General Instructions

- Transfer of federally forfeited property is governed by the Department of Justice Attorney General's Guidelines on Seized and Forfeited Property (Guidelines).
- Requesting **state or local** law enforcement agency (Agency) head or designee must complete the DAG-71. (**Note:** Incomplete or inaccurate information is the most common cause of delay in processing.)
- For international transfer of federally forfeited property, contact the Asset Forfeiture Office, Criminal Division, Department of Justice, Washington, D.C.
- A **separate** DAG-71 must be completed for **each** asset (or proceeds) requested.
- The **deadline** for submitting the DAG-71 to the federal investigative agency processing the forfeiture (federal agency) is **60 days from the date of the last seizure in the case.** No DAG-71 will be considered if submitted after the deadline.
- In a one-asset case where the Agency requests the tangible property in lieu of proceeds, the Agency must return costs and the appropriate federal equitable share to the United States. If the Agency is unable to return the costs and federal share, the property will be liquidated and the proceeds distributed proportionally. (Upon adequate justification, exceptions may be granted by the deciding official.)

DAG-71

Part I: For federal use only. (**Note:** Asset Number refers to federal investigative agency case number or uniform identifier.)

Part II: Provide information requested. If **NCIC code** is not known, contact the federal agency responsible for processing this forfeiture. **Contact person** is the person who has authority to accept property and transfer documents, and/or money.

Part III: Provide as complete a property description as possible. Include serial or vehicle identification number. You must check either **"Item"** (if requesting the asset) or **"Cash/Proceeds"** (if requesting a percentage of the asset). Attach list of any other assets in this case.

By law, **percentage requested** must be based on the "degree of direct law enforcement effort by the state or local agency resulting in the forfeiture, taking into account the total value of all property forfeited and total law enforcement effort, including any related criminal prosecution with respect to the violation of law on which the forfeiture is based." (21 U.S.C. 881(e)(3)).

Part IV : Indicate specific intended law enforcement purpose(s) for requested cash, proceeds or tangible property. Pursuant to the Guidelines, all property, including cash and proceeds, must be used for the specific law enforcement purpose(s) approved.

Part V: Answer all items A - F. If an answer to A thru E is yes, provide details in Block VI.

Part VI: Space for additional information.

Part VII: Agency head or his designee and appropriate legal office must **certify** that information provided in Blocks I - VI is true and accurate.